

AMENDED IN SENATE APRIL 15, 2009

AMENDED IN SENATE APRIL 1, 2009

**SENATE BILL**

**No. 748**

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**Introduced by Senator Leno**

February 27, 2009

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An act to add Section 14029.5 to the Penal Code, relating to witness relocation and assistance.

LEGISLATIVE COUNSEL'S DIGEST

SB 748, as amended, Leno. Witness Relocation and Assistance Program: address records.

Existing law establishes the Witness Relocation and Assistance Program.

This bill would provide that no person, state, or local public agency, or private entity shall knowingly post the home address or telephone number of any witness or witness family member participating in the Witness Relocation and Assistance Program (*WRAP*), and that a violation of these provisions would be a misdemeanor punishable by a fine of up to \$2,500, or up to 6 months in a county jail, or by both that fine and imprisonment. The bill would also provide that a violation that leads to the bodily injury of the witness, or the witness' family members who are participating in the program, is a misdemeanor punishable by a fine of up to \$5,000, or up to one year in a county jail, or by both that fine and imprisonment. The bill would authorize participants in the program to submit opt-out forms to Internet search engine providers to notify those providers of the participants, and to prevent inclusion of the participants addresses and telephone numbers in public Internet search databases, as specified. *The bill would require a business, state or local agency, private entity, or person to remove the home address*

*or telephone number of a WRAP participant from its public Internet search databases upon receipt of the opt-out form, and the failure to do so would be subject to a \$5,000 civil fine, as specified.* The bill would authorize a witness whose home address or telephone number is made public as a result of a violation, *as specified*, to bring an action seeking injunctive or declaratory relief. The bill would further provide that no person, business, or association shall solicit, sell, or trade on the Internet the home address or telephone number of a witness ~~with the intent to cause imminent great bodily harm to the witness or to any person residing at the witness' home address, as specified~~, and would authorize an action for damages, as specified, for a violation of ~~these provisions~~ *this prohibition*.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 14029.5 is added to the Penal Code, to  
2 read:  
3 14029.5. (a) ~~No person, state or local public agency, or private~~  
4 ~~entity shall knowingly post the home address or telephone number~~  
5 ~~of any witness or witness family member participating in the~~  
6 ~~Witness Relocation and Assistance Program (WRAP) on the~~  
7 ~~Internet.~~ *(1) No person or private entity shall post on the Internet*  
8 *with the intent to cause bodily harm, the home address, the*  
9 *telephone number, or personal identifying information intended*  
10 *to disclose the location of any witness or witness' family member*  
11 *participating in the California Witness Relocation and Assistance*  
12 *Program (WRAP). A*  
13 *(2) A violation of this subdivision is a misdemeanor punishable*  
14 *by a fine of up to two thousand five hundred dollars (\$2,500), or*  
15 *imprisonment of up to six months in a county jail, or by both that*  
16 *fine and imprisonment.* ~~A violation~~

1     (3) *A violation of this subdivision that leads to the bodily injury*  
2 *of the witness, or a family member of the witness who is of any*  
3 *of the witness' family members who are participating in the*  
4 *program, is a misdemeanor punishable by a fine of up to five*  
5 *thousand dollars (\$5,000), or imprisonment of up to one year in a*  
6 *county jail, or by both that fine and imprisonment.*

7     (b) Upon admission to the WRAP program, local or state  
8 prosecutors shall give each participant a written opt-out form for  
9 submission to relevant Internet search engine companies or entities.  
10 This form shall notify entities of the protected person and prevent  
11 the inclusion of the participant's addresses and telephone numbers  
12 in public Internet search databases.

13     (c) *A business, state or local agency, private entity, or person*  
14 *shall remove the home address and telephone number of a WRAP*  
15 *participant from its public Internet search databases upon receipt*  
16 *of the opt-out form. No person, business, or association shall*  
17 *solicit, sell, or trade on the Internet the home address or telephone*  
18 *number of a WRAP participant.*

19     (d) *A person, business, or private entity that violates subdivision*  
20 *(c) shall be subject to a civil penalty for each violation in the*  
21 *amount of five thousand dollars (\$5,000). An action for a civil*  
22 *penalty under this subdivision may be brought by any public*  
23 *prosecutor in the name of the people of the State of California and*  
24 *the penalty imposed shall be enforceable as a civil judgment.*

25     ~~(e)~~  
26     (e) A witness whose home address or telephone number is made  
27 public as a result of a violation of subdivision ~~(a)~~ (c) may bring  
28 an action seeking injunctive or declaratory relief in any court of  
29 competent jurisdiction. If a jury or court finds that a violation has  
30 occurred, it may grant injunctive or declaratory relief and shall  
31 award the witness court costs and reasonable attorney's fees.

32     ~~(d) (1) No person, business, or association shall solicit, sell, or~~  
33 ~~trade on the Internet the home address or telephone number of a~~  
34 ~~witness with the intent to cause imminent great bodily harm to the~~  
35 ~~witness or to any person residing at the witness' home address.~~

36     ~~(2)~~  
37     (f) Notwithstanding any other provision of law, a witness whose  
38 home address or telephone number is solicited, sold, or traded in  
39 violation of ~~paragraph (1)~~ subdivision (c) may bring an action in  
40 any court of competent jurisdiction. If a jury or court finds that a

1 violation has occurred, it shall award damages to that witness in  
2 an amount up to a maximum of three times the actual damages,  
3 but in no case less than four thousand dollars (\$4,000).

4 (g) *Nothing in this section shall preclude prosecution under any*  
5 *other provision of law.*

6 SEC. 2. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.